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Attorneys for SERVICE EMPLOYEES INTERNATIONAL  
UNION, LOCAL 2015

UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD

SERVICE EMPLOYEES INTERNATIONAL  
UNION, LOCAL 2015,

Charging Party,

And

MONTECITO HEIGHTS HEALTHCARE &  
WELLNESS CENTER,

Respondent.

No. 31-CA-129747

**REQUEST FOR ADDITIONAL  
BRIEFING**

1. This case presents the issue of whether an employer's mandatory arbitration provision violates the Act. The matter is before the Board on Exceptions and Cross-Exceptions.

2. On May 21, 2018, the Supreme Court issued its decision in *Epic Systems Corp. v. Lewis*, No. 16-285, together with its decisions in *Ernst & Young LLP v. Morris*, No. 16-300 and *National Labor Relations Board v. Murphy Oil USA, Inc.*, No. 16-307, cited as 584 U.S. \_\_\_\_

(2018). The Court held, in summary, that in light of the Federal Arbitration Act, the Board's Decision in *Murphy Oil* could not foreclose arbitration agreements that prohibited or waived collective or class actions brought within the context of the Fair Labor Standards Act.

3. In the Brief in Support of Cross-Exceptions, the Charging Party has raised a number of other issues which were never addressed by the Supreme Court in *Epic Systems*. It should be clear from a review of those Cross-Exceptions that the arbitration agreement at issue in this case would be invalid on a number of other grounds raised in those Cross-Exceptions.

4. The Charging Party requests that the Board issue an Order allowing the parties to file supplemental briefs not to exceed 10 pages promptly to address the issues raised by the Supreme Court's decision in *Epic Systems* and its impact upon the Exceptions and Cross-Exceptions pending in this case. This Board may have hoped that the Supreme Court's decision would resolve the cases pending before it. SAD. It does not as reflected in the issues which it must now face.

Dated: May 25, 2018

Respectfully submitted,

By: WEINBERG, ROGER & ROSENFELD  
A Professional Corporation

/s/ David A. Rosenfeld

DAVID A. ROSENFELD

LISL R. SOTO

Attorneys for Charging Party, SERVICE  
EMPLOYEES INTERNATIONAL UNION,  
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## PROOF OF SERVICE

I am a citizen of the United States and resident of the State of California. I am employed in the County of Alameda, State of California, in the office of a member of the bar of this Court, at whose direction the service was made. I am over the age of eighteen years and not a party to the within action.

On May 25, 2018, I served the following documents in the manner described below:

### REQUEST FOR ADDITIONAL BRIEFING

- ☒ (BY ELECTRONIC SERVICE) By electronically mailing a true and correct copy through Weinberg, Roger & Rosenfeld's electronic mail system from [kkempler@unioncounsel.net](mailto:kkempler@unioncounsel.net) to the email addresses set forth below.

On the following part(ies) in this action:

Executive Secretary  
National Labor Relations Board  
1015 Half Street SE  
Washington, DC 20570-0001

*VIA ELECTRONIC FILING*

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I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on May 25, 2018, at Alameda, California.

*/s/ Karen Kempler*

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Karen Kempler